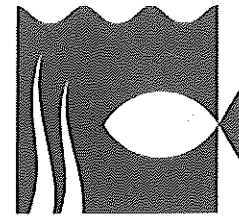


**Connecticut Fund
for the Environment**



Save the Sound®
A program of
Connecticut Fund for the Environment

**Testimony of Connecticut Fund for the Environment
Before the Planning and Development Committee**

***In Support of H.B. No. 5254, AN ACT EXPANDING THE RECREATIONAL LAND USE
ACT***

Submitted by Jessica Morowitz, Legal Fellow
February 14, 2011

Connecticut Fund for the Environment ("CFE") is Connecticut's non-profit environmental advocate with over 6,500 members statewide. For over thirty years, CFE has fought to protect and preserve Connecticut's health and environment.

CFE strongly supports H.B. 5254, An Act Expanding the Recreational Land Use Act.

H.B. 5254 is an important bill that would restore to municipalities and municipal entities the same liability protection currently afforded to the State and private landowners.

H.B. 5254 is an important bill because municipalities and municipal entities are some of the largest open space landowners in the state. By ensuring that they receive the same liability protection as the State and private landowners such as individuals, corporations, nonprofits, and private utilities, we are encouraging them to open up this vast amount of land to the public to provide low-cost recreational opportunities. Without such protections, the fear of lawsuits could result in a large amount of open space being closed off to our citizens, and losing the extraordinary value these partnerships provide. Moreover, when a municipality incurs costs defending or settling such lawsuits, those costs are ultimately paid for by all of us.

In 1971, the General Assembly passed the Connecticut Land Use Recreation Act ("the Recreation Act"), Conn. Gen. Stat. § 52-557*et seq.*, which recognized the importance of encouraging landowners to open up their land to the public for recreational purposes by

protecting landowners from liability for personal injury lawsuits as long as they do not charge a fee for access to the property. When originally enacted, municipalities and municipal entities were thought to be included in the definition of "owner" under the statute. After a 3-2 Supreme Court decision in *Conway v. Wilton* in 1996, however, municipalities were no longer considered "owners" under the statute and therefore did not receive the liability protection afforded by the Recreation Act.

H.B. 5254 is a simple bill that amends the definition of "owner" to explicitly include municipalities, quasi-public agencies and special districts created by special act for the purpose of providing water or sewer services. It is important to point out that the Recreation Act does not provide total or absolute immunity to the owner of the property, as they are not protected from liability for willful or malicious actions, and this bill does nothing to change that.

For the above stated reasons, CFE strongly supports H.B. 5254, An Act Expanding the Recreational Land Use Act. CFE thanks the Committee for its attention to this important matter, and urges the Committee to vote favorably on this bill.